

"Failure to Conduct Mining Activities in Accordance with Approved Mine Plan"

EVENT VIOLATION INSPECTOR'S STATEMENT

Company/Mine: Andalex Resources, Inc/Centennial Project
Permit #: C/007/019

NOV # 10040
Violation # 1 of 1

A. SERIOUSNESS

1. What type of event is applicable to the regulation cited? Refer to the DOGM reference list of event below and remember that **the event is NOT the same as the violation.** Mark and explain each event.

- | | | |
|-------------------------------------|----|--|
| <input type="checkbox"/> | a. | Activity outside the approved permit area. |
| <input type="checkbox"/> | b. | Injury to the public (public safety). |
| <input type="checkbox"/> | c. | Damage to property. |
| <input type="checkbox"/> | d. | Conducting activities without appropriate approvals. |
| <input type="checkbox"/> | e. | Environmental harm. |
| <input type="checkbox"/> | f. | Water pollution. |
| <input checked="" type="checkbox"/> | g. | Loss of reclamation/revegetation potential. |
| <input type="checkbox"/> | h. | Reduced establishment, diverse and effective vegetative cover. |
| <input type="checkbox"/> | i. | No event occurred as a result of the violation. |
| <input checked="" type="checkbox"/> | j. | Other. |

Explanation: The Permittee did not meet the terms and conditions established within the approved mining and reclamation plan (Appendix X) for the degasification wells permitted for ventilation enhancement at the Aberdeen Mine / Centennial Project.

2. Has the even occurred? Yes

If yes, describe it. If no, what would cause it to occur and what is the probability of the event(s) occurring? (None, Unlikely, Likely).

Explanation: As observed on July 2, 2009, the Permittee failed to control and treat runoff from several of the disturbed areas associated with the Centennial degasification wells, particularly wells GVH-1, #6 and #12. Numerous silt fences were observed to have been overtopped or run-around by reporting flows, or they had been flattened by snow pack and not repaired. Several gullies were observed reporting from the well pads.

3. Did any damage occur as a result of the violation? Yes

If yes, describe the duration and extent of the damage or impact. How much damage may have occurred if the violation had not bee discovered by a DOGM inspector? Describe this potential damage and whether or not it would extend off the disturbed and/or permit area.

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Explanation: The Permittee did not mark any of the proposed well site disturbances prior to development.

Small flows reporting off of the topsoil piles were visible traveling through undisturbed vegetation across what should have been marked as the disturbed area boundary. The topsoil piles were not adequately protected or identified. Sediment laden runoff reported off of the pad areas through several breached berms. These untreated runoff volumes left the disturbed areas in several locations.

B. **DEGREE OF FAULT** (Check the statements which apply to the violation and discuss).

- ☐ Was the violation not the fault of the operator (due to vandalism or an act of God), explain. Remember that the permittee is considered responsible for the actions of all persons working on the mine site.

Explanation: _____

- ☒ Was the violation the result of not knowing about DOGM regulations, indifference to DOGM regulations or the result of lack of reasonable care.

Explanation: The Permittee amended the mining and reclamation plan to allow for the development of degasification wells to enhance the Aberdeen Mines ventilation system. However, upon observing the condition of the degasification well sites on July 2, 2009, it appears that very few commitments, as contained within the approved plan, were ever implemented at the sites. These sites are a poor example of compliance with the R645 Coal Mining Rules.

- ☐ If the actual or potential environmental harm or harm to the public should have been evident to a careful operator, describe the situation and what, if anything, the operator did to correct it prior to being cited.

Explanation: _____

- ☐ Was the operator in violation of a specific permit condition?

Explanation: _____

- ☐ Has DOGM or OSM cited the violation in the past? If so, give the dates and the type of warning or enforcement action taken.

Explanation: _____

C. GOOD FAITH

1. In order to receive good faith for compliance with an NOV or CO, the violation must have been abated before the abatement deadline. If you think this applies, describe how rapid compliance was achieved (give date) and describe the measures the operator took to comply as rapidly as possible.

Explanation: _____

2. Explain whether or not the operator had the necessary resources on site to achieve compliance.

Explanation: Prior to service of the violation to the Permittee's representative on July 7, 2009, Mr. Shaver indicated that some action was being taken at the well sites. He was not specific, as he needed to check on those activities.

3. Was the submission of plans prior to physical activity required by this NOV / CO? No If yes, explain.

Explanation: All activities can be couched within the performance standards of the R645 Coal Mining Rules.

Peter H. Hess
Authorized Representative

Peter H. Hess
Signature

July 6, 2009
Date